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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,732	08/25/2003	Thomas T. Chen	97511.00005	2152
7590 06/16/2006 McCarter & English, LLP Financial Centre Suite 304A 695 East Main Street Stamford, CT 06901-2138			EXAMINER O HARA, EILEEN B	
			ART UNIT 1646	PAPER NUMBER

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

A. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 6-10, drawn to inhibiting the proliferation of malignant cells by administration of nucleic acid encoding an E-domain peptide agent, class 514, subclass 44.
- II. Claims 16-23, drawn to inhibiting the proliferation of malignant cells by administration of an E-domain peptide agent, class 514, subclass 12, for example.

B. The inventions are distinct, each from each other because of the following reasons:

Inventions I and II are independent and distinct, each from the other, because they are methods of treatment either with nucleic acid encoding an E-domain peptide agent, or treatment with an E-domain peptide agent. The methods of treatment require different method steps and starting materials. For example, the methods of administration of the nucleic acid of group I and the polypeptide of group II are patentably distinct for the following reasons: polypeptides, which are composed of amino acids, and polynucleotides, which are composed of purine and pyrimidine units, are structurally distinct molecules; any relationship between a polypeptide and polynucleotide is dependent upon the information provided by the nucleic acid sequence open reading frame as it corresponds to the primary amino acid sequence of the encoded polypeptide. Furthermore, searching the inventions of groups I and II together would impose a serious search burden. In the instant case, the search of the polypeptides and the polynucleotides is not coextensive. The inventions of groups I and II have a separate status in the art as shown by their different classifications. In cases such as this one where descriptive sequence information is provided, the sequences are searched in appropriate databases. There is also search burden in the non-patent literature. Prior to the concomitant isolation and expression of the sequence of interest there may be journal articles devoted solely to polypeptides which would not have described the polynucleotide. Similarly, there may have been "classical" genetics papers which had no

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knowledge of the polypeptide, but spoke to the gene. Searching, therefore, is not coextensive. Additionally, there would be an additional search for the methods of gene therapy which would not be required for the search for treatment with polypeptides. As such, it would be burdensome to search the inventions of groups I and II.

Because these inventions are distinct for the reasons given above, have acquired a separate status in the art as shown by their different classification and/or different search requirements, and the search required for each group is not required for the other groups because each group requires a different non-patent literature search due to each group comprising different products and/or method steps, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eileen B. O'Hara, whose telephone number is (571) 272-0878. The examiner can normally be reached on Monday through Friday from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nichol can be reached at (571) 272-0835.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Eileen B. O'Hara, Ph.D.

Patent Examiner

Eileen B. O'Hara
EILEEN B. O'HARA
PRIMARY EXAMINER